

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on January 24, 2007, the Examiner rejected claims 1, 3-11, 13, and 15-29 under 35 U.S.C. §102(b) as being anticipated by the Examiner U.S. Patent No. 5,905,246 to Fajkowski (hereinafter “Fajkowski”) and rejected claims 2 and 12 under 35 U.S.C. §103(a) as being unpatentable over Fajkowski in view of U.S. Patent No. 6,330,543 to Kepecs (hereinafter “Kepecs”). Accordingly, Applicants respectfully provide the following.

Claim Rejections Under 35 U.S.C. §102(b):

The Examiner rejected claims 1, 3-11 and 13, and 15-19 under 35 U.S.C. §102(b) as being anticipated by Fajkowski. Applicants respectfully provide the following response and request withdrawal of the rejection under 35 U.S.C. §102(b).

M.P.E.P. 2131 sets forth the standard for a rejection of a claim as anticipated under 35 U.S.C. § 102. “To anticipate a claim, the reference must teach every element of the claim.” M.P.E.P. 2131 states further,

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . “The identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant respectfully submits that the reference(s) cited by the Examiner fail to teach every element of the claim set as provided herein for the following reasons.

Claim 1 has been amended to require wireless communications devices on both the purchaser and vendor devices, and to further require that the devices be in short-range wireless radiofrequency communication with each other. These limitations are supported by the application as filed at page 9 lines 9-21 and page 19 lines 8-13. Applicants respectfully submit that Fajkowski does not teach these limitations. Rather, Fajkowski teaches a coupon card that must be physically inserted into a point of sale device for light-based communication and coupon transference to occur. (Col 4 lines 17-18 and 24-25) Because Fajkowski does not disclose these limitations, it fails to anticipate the claimed invention under 35 U.S.C. § 102(b). Therefore, Applicants respectfully request removal of the rejection of independent claim 1, as well as dependent claims 3-6 under 35 U.S.C. § 102(b). Regarding claim 5, Applicants respectfully note that the pager communications disclosed by Fajkowski at Column 6 lines 60-67 does not teach “in complete detail” that the coupon card of Fajkowski includes either a cell phone or a personal digital assistant, as is required under section 102.

Applicants also respectfully submit that Fajkowski does not teach the method and computer program products claimed in amended claims 8, 17, 26, and 29 which include the steps for transmitting the electronic coupon using a short-range wireless radiofrequency transmission. Applicants respectfully submit that Fajkowski only discloses a long-range wireless communication and a plug-in light-based communication. (Col 6 line 60-Col 7 line 3 and Col 4 lines 17-18 and 24-25) Because Fajkowski does not disclose these limitations, it fails to anticipate the claimed invention under 35 U.S.C. § 102(b). Therefore, Applicants respectfully request withdrawal of the rejection of independent claims 8, 17, 26, and 29, as well as dependent claims 9-11, 13, 15-16, 21-25, and 27-28 under 35 U.S.C. § 102(b).

Claim Rejections under 35 U.S.C. §103(a).

The Examiner rejected claims 2 and 12 under 35 U.S.C. §103(a) as being unpatentable over Fajkowski in view of Kepecs. Applicants respectfully provide the following response and request withdrawal of the rejection under 35 U.S.C. §103(a).

The standard for a Section 103 rejection is set forth in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

(Emphasis added). Applicant respectfully submits that the references cited by the Examiner, either alone or in combination, do not teach or suggest all the limitations claimed in the claim set provided herein.


Applicants respectfully submit that Fajkowski does not teach or suggest all the claim limitations. MPEP § 2142. For instance, Applicants respectfully submit that neither Fajkowski nor Kepecs, nor the combination thereof, teaches the short-range wireless radiofrequency communication devices and methods contained in amended claims 1 and 8, as discussed above. Because the cited references do not disclose these limitations, they fails to make the claimed invention obvious under 35 U.S.C. § 103(a). Therefore, Applicants respectfully request removal of the rejection of claims 2 and 12, which depend from amended independent claims 1 and 8, under 35 U.S.C. § 103(a).

CONCLUSION

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 24 day of April, 2007.

Respectfully submitted,



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